



**TERMS AND CONDITIONS OF SALE
(REVISED NOVEMBER 2016)**

1. TERMS AND CONDITIONS

- 1.1 The following terms and conditions (the "**Terms and Conditions**") shall be the sole terms and conditions governing the sale of goods by Arconic Fastening Systems & Rings Limited (company number 01736094) registered in England and Wales with its registered office at 26a Atlas Way, Sheffield S4 7QQ ("**Seller**") to the purchaser of such goods ("**Buyer**"). The identity of the Buyer, the identity of the goods being purchased (the "**Goods**"), the quantity of Goods being purchased, the destination for delivery of the Goods, and other material information concerning the Buyer's order shall be set forth in the Buyer's purchase order (the "**Purchase Order**") and provided to the Seller. All Purchase Orders are subject to acceptance by the Seller and no contract for sale shall arise until such acceptance. These Terms and Conditions are hereby incorporated into and made a part of each such Purchase Order.
- 1.2 The Seller reserves the right to decline any Purchase Order.

2. ORDER ACCEPTANCE

- 2.1 The Seller's acceptance of a Purchase Order shall be evidenced by the Seller's written acceptance of the Purchase Order or acceptance by the Buyer of Goods furnished by the Seller in response to such Purchase Order. The Purchase Order, the written acceptance, if any, and these Terms and Conditions shall be the complete and final agreement (the "**Agreement**") between the Seller and the Buyer with respect to the purchase and sale of Goods identified in the Purchase Order, to the exclusion of any other terms and conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

The Seller's acceptance of any Purchase Order is expressly made conditional upon the Buyer's acceptance of these Terms and Conditions, and the Seller objects to any additional or different terms and conditions, whether contained in the Purchase Order or otherwise. The Seller will not be deemed to have waived these Terms and Conditions of sale if the Seller fails to object to provisions contained in the Purchase Order, other forms or otherwise. No amendment to these Terms and Conditions shall have any effect unless approved in writing by a director or other authorised employee of the Seller.

3. DELIVERY, TITLE AND RISK OF LOSS

- 3.1 Unless otherwise specifically agreed in writing by the Seller, all Goods are sold Ex-Works Seller's plant (Incoterms 2010), the cost of transportation for and risk of loss to the Goods to be borne by the Buyer.
- 3.2 The Seller reserves the right to make the Goods available in instalments, and to invoice instalments separately. Each instalment shall constitute a separate Agreement. Any delay or defect in any instalment will not entitle the Buyer to cancel any other instalment. If the Buyer shall make default in payment of any monies payable to the Seller in relation to any delivery or any pre-payment under an Agreement for delivery by instalments then the Seller shall be entitled within its discretion summarily to terminate the then outstanding balance of the Agreement by serving notice to that effect upon the Buyer.
- 3.3 If for any reason the Buyer is unable to accept delivery of the Goods when the Goods are due and ready for delivery or collection the Seller may arrange for storage of the Goods at the Buyer's risk and the Buyer shall be liable to the Seller for the reasonable costs (including insurance) of such storage, vehicle or wagon detention or demurrage of ships, in each case, as a consequence of any act or omission of the Buyer, or its servants or agents or as a result of any special requirement or stipulation not set out in the Agreement. This provision is without prejudice to any other right which the Seller may have in respect of the Buyer's failure to take delivery of the Goods or pay for them in accordance with the Terms and Conditions.



- 3.4 Where the Buyer fails to collect the Goods within 3 days of being notified to do so, the Seller may despatch the goods itself at the Buyer's expense and risk (if an address for delivery of the Goods has not been specified by the Buyer, to such address of the Buyer as the Seller may in its discretion decide) or store them at the Buyer's expense and risk, in which case the Goods shall be deemed to have been delivered.
- 3.5 Until the Seller has been paid in full (in cash or cleared funds) for the Goods and until all other monies due or which become due from the Buyer to the Seller on any account whatsoever have been paid in full (in cash or cleared funds), the following provisions shall apply:
- (a) legal and beneficial ownership of such Goods shall remain with the Seller;
 - (b) the Buyer shall have a right to possession (but not ownership) of such Goods and shall ensure that the Goods shall be clearly marked and identifiable as being the Seller's property;

the Seller may recover all or any part of such Goods at any time from the Buyer if they are in the Buyer's possession and any of the events in Condition 11.2 has occurred and for that purpose the Seller, its agents and representatives may enter upon any land or building upon or in which such Goods are situated;
 - (c) the Buyer has a right to dispose of such Goods (as between it and its customers only) as principal in the ordinary course of its business with such right being terminable by the Seller giving to the Buyer notice at any time and such right being automatically terminated (without notice) upon the happening of any of the events referred to in Condition 11.2;
 - (d) the Seller shall package the Goods in accordance with applicable industry standards; and
 - (e) even if legal title to the Goods has not passed to the Buyer, the Seller may nevertheless maintain an action against the Buyer for the purchase price and all other monies in relation to the Goods notwithstanding Section 49 of the Sale of Goods Act 1979.
- 3.6 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Condition 11.2 then, without limiting any other right or remedy the Seller may have, the Buyer's right to resell the Goods or use them in the ordinary course of its business shall cease immediately.

4. DELIVERY DATES

All delivery and shipping dates are estimates only. The Seller expressly reserves the right to manufacture and deliver the Goods at any time prior to the estimated delivery or shipping date.

5. DELAYS

The Seller will use commercially reasonable efforts to fulfil the relevant Agreement in accordance with the estimated delivery or shipping date, but the Seller will not be responsible for any delays in fulfilling the Agreement nor liable for any losses or damages resulting from such delays, and the Agreement will not be subject to cancellation for any such delays.

6. FORCE MAJEURE

The Seller will not be liable for delays in fulfilling the Agreement or failure in the performance of any of its obligations under this Agreement caused by accidents, labour disputes or disruptions, strikes, shortages of labour, materials, fuel or power, fires, floods or other acts of God, acts of terrorism or war, acts or omissions of the Buyer, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of any government authority, restrictions imposed by law or any rules or regulations thereunder, or any cause, whether similar to or dissimilar from those set forth above, beyond the Seller's reasonable control. In the event of any such circumstances causing a delay in delivery then the Seller shall be entitled to serve written notice of such circumstances on the Buyer and should the situation prevail for a period exceeding ninety days from the date of such notice then either party shall be entitled within a further period of ten days to cancel the Agreement or that part of the Agreement still outstanding.



7. PAYMENT AND PRICES

- 7.1 The price for the Goods shall be as stated in the Agreement and is based on the cost to the Seller of raw materials, fuel and power, transport and labour and other costs at the date of acceptance of the Purchase Order or delivery of the Goods (whichever is earlier). If, at the date of despatch of the Goods by the Seller, there has been any increase in all or any of such costs then the price payable for the Goods may, on notification to the Buyer by the Seller, be increased accordingly.
- 7.2 All prices and payments are in Sterling unless otherwise agreed. Quotations in a currency other than Sterling are based on the rate of exchange at the time of quoting and unless otherwise stated the price may be subject to revision up or down if any different rate of exchange is ruling at the date of invoice. The prices stated do not include any value added tax or any other tax or duty related to the manufacture, transportation, export, import, sale or delivery of the Goods and all such taxes in effect or hereafter levied are in addition to such prices and will be paid by the Buyer.
- 7.3 Unless otherwise agreed to in writing by the Seller, payment terms are net 30 days from the date of invoice. The Buyer's obligation to make full and timely payment of amounts due under the Agreement shall be without rights of abatement, counterclaim, deduction or set-off.
- 7.4 The Seller retains all rights at law pertaining to the collection of unpaid amounts owed by the Buyer under the Agreement, and the Buyer will reimburse the Seller for all costs associated with such collection activities, including reasonable legal and professional fees, and the Seller reserves the right to charge interest on late payments at the rate of five percent over base rate of the Bank of England prevailing from day to day from the due date for payment until the day payment is received by the Seller. Such interest shall run from day to day and shall accrue after as well as before judgment and shall be compounded monthly on the amount overdue until payment thereof.
- 7.5 Whenever reasonable grounds for insecurity exist with respect to due payment by the Buyer, the Seller may demand different terms of payment from those specified in the Agreement and may demand assurance of the Buyer's due payment. Any such demand may be oral or written and the Seller may, upon the making of such demand, stop production and suspend shipment hereunder. If, within the period stated in such demand, the Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of due payment, the Seller may, at its option, treat such failure or refusal as a repudiation of the portion of the Agreement which has not been fully performed, or may resume production and may make shipment under reservation of possession or of a security interest and may demand payment against tender of documents of title.
- 7.6 Time of payment by the Buyer shall be of the essence of the Agreement.
- 7.7 The Seller shall, in respect of all unpaid debts from the Buyer, have a general lien on all Goods and property of the Buyer (whether or not paid for), in the possession of the Seller and shall be entitled, upon expiration of 14 days' notice, to dispose of such Goods or property as it thinks fit and to apply the proceeds towards such debts.
- 7.8 In the event the Seller makes a payment to the Buyer in connection with an Agreement, the Buyer acknowledges and agrees that notwithstanding any other written agreement with the Seller:
- (a) any and all payment to the Buyer shall be made payable to the Buyer in the country in which the Buyer does business or resides;
 - (b) all payments to the Buyer shall be made by telegraphic transfer/wire transfer or by a Seller cheque delivered to the Buyer in the location where it does business or resides;
 - (c) the Seller has the right to suspend or withhold payment pending an investigation into any suspected violation of Condition 20, any applicable anti-corruption law and/or the Bribery Act 2010 or the United States Foreign Corrupt Practices Act;



- (d) unless agreed to expressly in writing, the Buyer shall not be reimbursed for any expenses incurred in its performance hereunder. To the extent that any payments are agreed upon, the Buyer shall be reimbursed for expenses reasonably incurred by it in the performance of its obligations hereunder, but only to the extent that such expenses are documented and supported by receipts to the Seller's satisfaction;
- (e) under no circumstances shall the Seller issue any payment under any Agreement directly to any owner, director, officer, employee, representative, agent or consultant of the Buyer; and
- (f) no request for cash payments or cash equivalents will be accepted by the Seller.

8. PURCHASE ORDERS

- 8.1 All Purchase Orders for Goods are subject to minimum order quantities which must be met before a Purchase Order is accepted by the Seller, and an extended shipment policy, both as determined by the Seller from time to time. Order policy and pricing are subject to change by the Seller without notice.
- 8.2 Purchase Orders confirmed by the Seller cannot be cancelled except with the written consent of the Seller.
- 8.3 Any changes requested by the Buyer to any Purchase Order will be subject to the written consent of the Seller and to an equitable price adjustment and/or delivery adjustment, as determined by the Seller.

9. QUANTITY

- 9.1 For fastener products, if the quantities shown on the packaging are based on weight counts, the Seller will use commercially reasonable efforts to ensure that its weight counts are accurate. The parties agree that if the quantity of Goods, as determined by actual weight, is within five percent (5%) of the quantity shown on the packaging, the Buyer shall be deemed to have received the quantity shown on the packaging, and the Buyer shall pay for such amount. Any Agreement fulfilled by the Seller that is less than the quantity ordered by the Buyer, but not less than ninety percent (90%) of the quantity ordered will be deemed to be fulfilled. In such event, the Seller shall notify the Buyer that the relevant Agreement has been fulfilled, and the Buyer shall be entitled only to the quantity of Goods provided by the Seller, and shall be required to pay only for the amount actually delivered by the Seller (but not for more than the amount ordered).
- 9.2 For rings products, the Seller reserves the right to under or over deliver any shipment of Goods by a margin of five percent (5%) (determined by number of pieces) and any delivery within the foregoing range will be deemed to be fulfilled. In such event, the Seller shall notify the Buyer that the relevant Agreement has been fulfilled, and the Buyer shall be entitled only to the quantity of Goods provided by the Seller, and shall be required to pay only for the amount actually delivered by the Seller.

10. INSPECTION

- 10.1 The Buyer will make adequate inspection of the Goods promptly after their receipt, and will give the Seller written notice of any non-conformity or defect within seven (7) days of receipt of the Goods. The Buyer's failure in either respect will constitute a waiver of any such non-conformity or defect. The Buyer must keep lot traceability records for the Goods to ensure that lots manufactured by the Seller can be traced through the Buyer's manufacturing and/or sales processes.
- 10.2 If any of the Goods shall be found to be of defective quality or not in conformity with agreed specification (excluding slight and immaterial imperfections in colour and appearance and reasonable excesses and deficiencies, which shall be accepted by the Buyer) then the Seller will at its option either replace the Goods at its expense or refund to the Buyer the sale price of the Goods, provided that if requested the Buyer will without delay, at the expense of the Seller, return the Goods that the subject of the complaint to the Seller if the relevant Goods are still in existence. The liability of the Seller will be satisfied by replacing the defective Goods or refunding the Buyer the sale price of the Goods and this shall be the Buyer's sole remedy. The Seller shall in no event be liable for loss of profit, damage to plant or any consequential or special loss or damage sustained by the Buyer.



10.3 The Seller will not accept return of any Goods without its prior agreement. Any Goods which are authorised to be returned will remain at the risk of the Buyer during transportation.

11. TERMINATION

11.1 The Buyer may not terminate any Agreement without the prior written consent of the Seller. If the Seller consents to such termination, reasonable termination charges computed by the Seller shall be assessed in connection with such termination.

11.2 The Seller shall be entitled, without prejudice to its other rights and remedies, either to terminate wholly or in part any or every Agreement between itself and the Buyer or to suspend any further deliveries under any or every Agreement in any of the following events:

- (a) if any debt is due and payable by the Buyer to the Seller but is unpaid;
- (b) if the Buyer has failed to provide any advanced payment or security requested by the Seller or a letter of credit, bill of exchange or any other security required by the Agreement provided that in such event the Seller's rights of termination or suspension under this Condition 11 shall apply only in regard to the particular contract in respect of which the Buyer shall have so failed;
- (c) if any guarantee or other security for trading in respect of the Buyer's obligations under the Agreement is cancelled, suspended or amended in any respect;
- (d) if, in the reasonable opinion of the Seller, the delivery (or any steps required in connection with the delivery) would involve a level of risk to the health or safety of any person that would constitute a breach, or potential breach, of any legal obligation by the Buyer and/or the Seller or would be excessive or unreasonable;
- (e) if the Buyer has failed to take delivery of the Goods under any contract between it and the Seller otherwise than in accordance with the Buyer's contractual rights or the Buyer is otherwise in breach of any such Agreement;
- (f) if the Buyer becomes insolvent or enters into any composition or arrangement (including a voluntary arrangement) with its creditors or, being a body corporate, has passed a resolution for voluntary winding up except where solely for the purpose of reconstruction or if a petition has been presented for an order for its winding up or for a receiver (including an administrative receiver) or administrator to be appointed or if any such order or appointment is made or if, being an individual or partnership, the Buyer suspends payment of his or their debts in whole or in part or if an application has been made for an interim order or a petition has been presented for a bankruptcy order or if any such order is made or if the Buyer, whether or not a body corporate, shall carry out or be subject to any analogous act or proceedings under any law; or

there is an imposition of any new, additional or increased tax, public charge, freight, tariff or duty which may after the date of the quotation or Agreement which is levied on or imposed on the Goods to be sold, or upon any sale, delivery, or other action taken under or in connection with any Agreement to which these Terms and Conditions apply, or upon the export or import of such Goods or materials required to produce the Goods.

11.3 The Seller shall be entitled to exercise its rights of termination or suspension under this Condition 11 at any time during which the event giving rise to such rights is continuing and has not been remedied and, in the event of a suspension, the Seller shall be entitled, as a condition of resuming delivery under any contract between it and the Buyer, to require prepayment of, or such security as it may require for the payment of, the price of any further Goods. If the Seller is entitled to exercise its rights of termination or suspension under this Condition, the Seller shall further be entitled by notice to the Buyer to treat all sums which are then due to the Seller under any contract between the Seller and the Buyer but which are not then payable, as being immediately due and payable.



- 11.4 Provisions which expressly or by implication survive termination of an Agreement shall continue in full force and effect, including but not limited to the following Conditions: 11 (Termination); 13 (Warranty); 14 (Limitation of Liability); 15 (Intellectual Property); 16 (Confidentiality); 17 (Legal and Trade Compliance); 20 (Anti-Corruption); and 21 (Miscellaneous).

12. ASSIGNMENT

The Buyer shall not assign, transfer, mortgage, charge, declare a trust over or deal in any way with all or part of the benefit of, or its rights or benefits under, an Agreement without the Seller's prior written consent.

13. WARRANTY

- 13.1 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Agreement.

The Seller warrants that the Goods sold to Buyer, at the time of delivery, will meet the Seller's description and specifications included in the Agreement in all material respects and be free from defects in material and workmanship. Such warranty is limited to twelve (12) months from the date of delivery of the Goods to Buyer. The Buyer must make any claim for breach of warranty under this Condition 13 prior to the expiration of the one-year warranty period, notwithstanding any longer statute of limitations. The foregoing warranty in this Condition 13 will only apply to Goods that are properly installed, maintained and/or operated or used under normal conditions. The Seller shall have no liability whatsoever in respect of any defect arising from (i) the Buyer's specifications, (ii) ordinary wear and tear, (iii) wilful damage by the Buyer or its customers, (iv) negligence on the part of the Buyer or its customers, (v) abnormal working conditions at the Buyer's or any of its customer's facilities, (vi) the Buyer's or any of its customer's failure to follow the Seller's instructions (whether oral or in writing), (vii) the Buyer's or any of its customer's misuse or alteration or repair of Goods sold hereunder without the Seller's prior written approval, or (viii) if the Buyer makes further use of the Goods after having discovered the defect.

- 13.2 The Seller's sole obligation and liability in the event of breach of warranty and the Buyer's sole remedy, as determined by the Seller, will be the Seller's refund of the amount paid for any non-conforming Goods, or repair or replacement of non-conforming Goods free of charge at the applicable delivery point. Any such repair, replacement or refund will be made only upon return of the non-conforming Goods to a location designated by the Seller. The Seller will pay the transportation costs for returning non-conforming Goods only after the Seller has inspected the non-conforming Goods (which may be by the Buyer returning a sample to the Seller at the Seller's request), approved of such return and provided the Buyer with shipping instructions.

- 13.3 Except to the extent such exclusion is prevented by law, THE SELLER MAKES NO WARRANTY THAT THE GOODS WILL BE OF SATISFACTORY QUALITY OR FIT FOR ANY PARTICULAR PURPOSE. THE SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT SUCH AS IS EXPRESSLY SET OUT IN THIS CONDITION 13.

- 13.4 Except to the extent such exclusion is prevented by law the Seller makes no warranty whatsoever with respect to Goods manufactured by third party suppliers and warranties with respect to such Goods are limited to those which are offered by such suppliers and are transferable to the Buyer.

14. LIMITATION OF LIABILITY

- 14.1 The Buyer shall indemnify the Seller against all action, claims or demands by third parties, howsoever arising, directly or indirectly, in connection with the use, functioning, performance or state of the Goods following delivery of the Goods to the Buyer except where such claim relates to death or personal injury caused by the Seller's negligence, of the negligence of its employees, agents or subcontractors.



- 14.2 Under no circumstances shall the Seller be liable to the Buyer in contract, tort (including negligence or breach of statutory duty) or otherwise for any of the following losses or damages, whether direct or indirect, arising out of, or in connection with, the supply, non supply or delay in supplying the Goods or otherwise in connection with any Agreement:
- (a) loss or damage incurred by the Buyer as a result of third party claims;
 - (b) loss of actual or anticipated profits;
 - (c) loss of actual or anticipated projects;
 - (d) loss of business opportunity;
 - (e) loss of anticipated savings;
 - (f) loss of goodwill;
 - (g) injury to reputation; or
- any incidental, consequential or special loss or damages howsoever caused.
- 14.3 In any event, the Seller's liability to the Buyer will not exceed the purchase price of the Goods on which such liability is based. Except to the extent such exclusion is prevented by law, the Buyer assumes all liability for any loss, damage or injury to persons or property arising out of, connected with or resulting from the use of the Goods, either alone or in combination with other products.
- 14.4 Nothing in these Terms and Conditions shall exclude or limit the Seller's liability for (i) death or personal injury caused by the Seller's negligence, or the negligence of its employees, agents or subcontractors (ii) fraud or fraudulent misrepresentation or (ii) any other liability that cannot be lawfully excluded or limited.
- 15. INTELLECTUAL PROPERTY**
- 15.1 **For fastener products**, the Seller agrees to indemnify the Buyer against court-assessed damages (excluding consequential damages) and costs resulting from infringement of any patents issued in the country of the Goods' origin, as well as any other intellectual property right in existence in that country at the time of the Seller's acceptance of the Purchase Order to the extent such intellectual property covers the Goods.
- 15.2 **For rings products**, the Seller agrees to indemnify the Buyer against court-assessed damages (excluding consequential damages) and costs resulting from infringement of any patents issued in the country of the Goods' origin, as well as any other intellectual property right in existence in that country at the time of the Seller's acceptance of the Purchase Order to the extent such infringement is caused by the processes or techniques used by the Seller in the manufacture of Goods under the Agreement. However, the Seller's liability for infringements will be limited to the purchase price of the Goods raising the infringement.
- 15.3 The Buyer agrees, for the Goods delivered under an Agreement, to defend, indemnify and hold the Seller harmless against charges, claims, damages (excluding consequential damages) and costs resulting from infringement of any third party intellectual property right by Goods meeting specifications, designs or instructions furnished or expressly or implicitly required by the Buyer.
- 15.4 Each party agrees to provide information and reasonable assistance to the other, upon request, to the extent such information and assistance are required by the other to defend against any infringement claim.



- 15.5 Nothing in the Agreement shall grant to the Buyer any right or license of any kind under any patent or other intellectual property owned or controlled by the Seller or its suppliers, or under which the Seller or its suppliers is licensed or developed by the Seller during the course of performance of the Agreement, but the foregoing shall not be understood to limit in any way the right of the Buyer to use and sell such Goods in the event that such Goods as sold hereunder are covered by any such patent. No right, title or interest in and to any development, invention or work of authorship conceived or developed by the Seller during the course of performing the Agreement or any other intellectual property rights is transferred to the Buyer.

16. CONFIDENTIALITY

Unless otherwise agreed to in writing by the Seller, the Seller will not be bound by any obligations of confidentiality or non-disclosure. Except for data customarily provided for quality control purposes (which the Buyer will keep confidential and use solely for such purposes), the Seller will not be required to provide any data concerning its manufacturing processes, in as much as such data was developed at private expense, and not an element of performance under the Agreement or any other contract with the Buyer.

17. LEGAL AND TRADE COMPLIANCE

The Buyer warrants that it will comply with all applicable laws in the United Kingdom and Europe and also any applicable United States federal, state and local laws and regulations including import and export laws and regulations and will all applicable export and import licences and their provisos. The Buyer specifically represents and warrants its compliance with the import and export laws and regulations of the United States of America, including but not limited to, the U.S. Foreign Corrupt Practices Act and all other applicable anti-corruption laws and regulations. The Seller's supply of Goods to the Buyer is conditional upon the Seller securing any necessary export authorisations or licences, and the Buyer shall cooperate with the Seller in obtaining such export authorisations or licenses at the Seller's request. The Seller shall have no liability to the Buyer in the event that an export authorisation or license is delayed, not approved or is later withdrawn or suspended. The Buyer agrees to provide the Seller any documentation the Seller reasonably requests to comply with applicable laws and regulations. Each party acknowledges that in no event shall the Seller be obligated to take any action that the Seller believes, in good faith, would cause it to be in violation of any laws, regulations, rules, decrees or directives applicable to the Seller or Buyer. Should the Buyer's actions, or the actions of its owners, directors, officers, employees, representatives, consultants or agents, result in the assessment of any fine, penalty or disgorgement of profits against the Seller for violation of any applicable laws, the Buyer hereby agrees to indemnify the Seller therefore. If any breach of this Condition 17 is suspected or known by the Buyer, they must notify the Seller immediately.

18. EQUIPMENT/TOOLING

- 18.1 Any equipment, including jigs, dies and other non-recurring tooling which the Seller constructs or acquires for use in the production of Goods for the Buyer under these Terms and Conditions ("**Tooling**") will be and remain the Seller's property and in the Seller's possession and control. If the Buyer pays for or otherwise reimburses the Seller for Tooling, then (i) the Seller will use such Tooling solely to produce Goods for the Buyer under the Agreement and for no other customer, and (ii) the Seller will require written permission from the Buyer (not to be unreasonably withheld or delayed) to use such Tooling to produce goods for a third party.
- 18.2 If for three consecutive years the Buyer fails to place any orders with the Seller for Goods to be produced using the Tooling, then the Seller may, by written notice to the Buyer at the Buyer's last known address, notify the Buyer of the Seller's intent to dispose of such Tooling. If the Buyer fails to place an order with the Seller for Goods to be produced using such Tooling within 30 days of such notice, then the Seller may dispose of such Tooling in its sole discretion without liability to the Buyer.



18.3 Any materials or equipment furnished by the Buyer to the Seller will be carefully handled and stored by the Seller while in the Seller's possession. The Seller shall be entitled to assume that any such materials or equipment is in good condition, true to drawings and entirely suitable to the Seller's methods of production, and for the production of the Goods in the quantities required. While the Seller uses all reasonable efforts to verify such material or equipment supplied by the Buyer, no responsibility is accepted by the Seller for their accuracy. All replacements, alterations and repairs to the Buyer's materials or equipment shall be paid for by the Buyer. If, for a period of three consecutive years, the Seller does not accept any Purchase Orders from the Buyer for Goods to be made with any such equipment or materials, the Seller may, by written notice to the Buyer, request the Buyer to make arrangements for the removal of such equipment or materials at the Buyer's expense. If the Buyer fails to reply or otherwise remove or dispose of the equipment or materials within thirty days of the date of the Seller's notice, the Seller may make such use of or dispose of such equipment or materials in its sole discretion without liability to the Buyer.

19. GOODS FOR DEVELOPMENT OR TESTING

19.1 IF GOODS ARE SAMPLES OR FOR DEVELOPMENT OR TESTING, EXCEPT TO THE EXTENT SUCH EXCLUSION IS PREVENTED BY LAW, THE SELLER MAKES NO WARRANTIES OF ANY KIND OR NATURE FOR SUCH GOODS AND THE SELLER EXPRESSLY EXCLUDES ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF SATISFACTORY QUALITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. ANY SUCH GOODS AND RELATED SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS, WITH ALL FAULTS."

19.2 Notwithstanding any other provision in these Terms and Conditions, the Seller has no obligation, liability or responsibility with regard to any sample, developmental or test Goods supplied by the Seller under any Purchase Order. The Buyer will indemnify, defend and hold the Seller harmless from all claims, demands, and causes of action asserted against the Seller (including reasonable legal and professional fees), including without limitation claims for personal injury, illness, death or loss or damage to physical property, resulting from or arising out of the Buyer's purchase, use or sale of sample, developmental or test Goods.

20. ANTI-CORRUPTION

The Buyer acknowledges that it has had the opportunity to review the Seller's written anti-corruption policy, a copy of which is available at the following web address: www.alcoa.com/global/en/about_alcoa/corp_gov/info_page/policy_anti_corruption.asp and on request from the Seller (the "**Policy**"). The Buyer represents and certifies that it fully understands the Policy, agrees to take no action that might be a violation of the Policy and will ensure that it, its officers, directors and employees act in compliance with the Policy.

20.1 It is the intent of the Seller and the Buyer that no payments or transfers of value shall be made in relation to the Agreement or to the Buyer's use or disposition of the Goods that have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business or any other benefit. The Buyer represents that it, and each of its owners, directors, officers, employees and every other person working on its behalf has not and shall not, in connection with the Agreement or transactions governed by these Terms and Conditions or in connection with any other business transactions involving the Seller, make any payment or facilitate or transfer or cause to transfer anything of value, directly or indirectly to:



- (a) any governmental official or employee (including any employee of a government corporation or public international organization);
- (b) any political party, official or worker of a political party, or candidate for public office;
- (c) any other person or entity if such payment or transfer would violate any applicable anti-corruption law; or
- (d) an intermediary for payment to any of the foregoing.

20.2 In the event of a breach of any of the representations, warranties or covenants made by the Buyer in this Condition 20, the Seller may, in its sole discretion and in addition to any other remedies it may have under law or these Terms and Conditions, cancel or terminate any Agreement without notice, and any claims for payment by the Buyer with regard to Agreements or transactions under these Terms and Conditions, including claims for services previously performed, shall be automatically terminated and cancelled, and any payments previously paid by the Seller shall be refunded to the Seller by the Buyer. The Buyer shall further indemnify and hold the Seller harmless against any and all claims, losses or damages arising from or related to such breach and/or termination of the Agreements.

20.3 The Buyer hereby represents, warrants and covenants to the Seller as follows:

- (a) the Buyer and its owners, directors, officers, employees and agents have not and will not pay, offer, promise to pay or authorise the payment directly or indirectly of any monies or anything of value to any government official, representative or employee or to any political party, holder of public office, or candidate for public office in connection with any Agreement. The Buyer acknowledges that, for the purposes of this Condition 20, a "government official" may include an employee or official of a commercial entity in which a government body has an ownership interest or exerts control over such entity, as well as officials, representatives and employees of public international organisations;
- (b) none of the Buyer's owners, directors, officers, partners, employees, agents or close family members thereof, i.e., spouses, children, parents and siblings, is presently (or has been within the last year) a government official, representative or employee of any political party, holder of public office, or a candidate for public office. The Buyer covenants that it will inform the Seller promptly in writing, if any such person assumes such a position while at the same time remaining one of the Buyer's owners, directors, officers, partners, employees or agents;
- (c) all information that has been submitted by the Buyer to the Seller is complete, truthful and accurate. The Buyer will not prepare, approve or execute any contract or other document or make any record that the Buyer knows or has reason to believe is false, inaccurate or incomplete;
- (d) the Buyer is organised for legitimate business purposes and not for any unlawful purpose, and has only lawful sources of funding;
- (e) the Buyer does not have any existing or potential relationship creating a conflict of interest that restricts or is otherwise in conflict with its ability to perform hereunder;

the Buyer is fully qualified to perform hereunder in accordance with the laws, regulations, rules, decrees and other directives applicable to it. The Buyer has obtained licenses or completed such registrations as may be necessary or required to perform such activities; and,
- (f) neither the Buyer nor any of its owners, directors, officers, partners, employees or agents has been convicted of or pleaded guilty to an offence involving fraud or corruption, nor has any such person been listed by any government agency as debarred, suspended, proposed for suspension or disbarment or otherwise ineligible for government procurement programs.



- 20.4 The Buyer will give prompt written notice to the Seller in the event that the Buyer breaches any of the warranties, representations or covenants contained herein. The Buyer further agrees to give prompt written notice to the Seller regarding any potential violation of any of the warranties, representations or covenants contained herein of which it obtains knowledge or becomes aware or has reasonable grounds to believe has occurred. Such notices shall be directed to:
- Director Global Compliance
Alcoa Inc.
201 Isabella Street
Pittsburgh, Pennsylvania 15212-5858
Email: ethicsandcompliance@alcoa.com
- 20.5 The Buyer will cooperate fully and in good faith with the Seller and its representatives in the event of any actual or potential violation by the Buyer, or any of its owners, directors, officers, employees or agents, of the Bribery Act 2010 or the United States Foreign Corrupt Practices Act or any other applicable anti-corruption law, or any warranties, representations or covenants contained herein, including providing access for interviews to its owners, directors, officers, employees and agents.
- 20.6 The Buyer will certify in writing, at the request of the Seller, its compliance with all anti-corruption applicable laws. In addition, it will certify (in the form of a certificate to be provided by the Seller), that it has not (and to its knowledge no other person, including but not limited to every director, officer, employee, representative, consultant or agent of the Buyer has), made, offered to make, or agreed to make any loan, gift, donation, or other payment, directly or indirectly, whether in cash or in kind, to or for the benefit of any government official, political party, party official, candidate for political office, or faction of any government subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof to secure or retain business, influence any decision or obtain any benefit for the Buyer. The Buyer agrees to promptly re-certify to the above upon request of the Seller. The Buyer shall complete periodic anti-corruption training provided by the Seller.
- 20.7 While conducting business with the Seller, and for a period of five (5) years thereafter, the Buyer agrees to maintain records that accurately and completely document all services performed; all payments received or made (whether in kind or in cash); and all expenditures incurred by the Buyer on behalf of the Seller or otherwise in connection with the performance of the Agreement. In order to verify compliance with this Condition 20, the Buyer agrees that the Seller shall have the right, from time to time, upon written notice, to audit the Buyer's books and records to the extent that such books and records relate to the Buyer's business with the Seller and any payments received or expenditures incurred hereunder. The Buyer agrees to furnish promptly to the Seller any additional information the Seller may reasonably request to verify the Buyer's compliance with this Condition 20.

The Buyer hereby agrees that it will indemnify the Seller for any loss or damage suffered by the Seller (including but not limited to any fines or penalties incurred by the Seller) as a result of any breach by the Buyer of this Condition 20.

21. MISCELLANEOUS

Notices. Any notice, approval, request, authorisation, direction or other communication required to be served under an Agreement shall be in writing and may be served personally or by prepaid letter or by facsimile communication system and shall be deemed to have been served in the case of personal delivery: upon delivery, in the case of post: within two days (UK) and within seven days (outside the UK) and in the case of facsimile: upon confirmation of successful facsimile transmission. Unless otherwise notified to the other party, the notice address shall be the address for the parties as set out in the relevant Agreement. This condition does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.

- 21.1 **Third party rights.** A person who is not party to an Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such contract, except that an Agreement may be performed, and all rights thereunder may be enforced against the Buyer, by the Seller or any subsidiary, parent or affiliate of the Seller. This condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under an Agreement are not subject to the consent of any other person.



- 21.2 **Waiver.** The rights and remedies provided by any Agreement may be waived only in writing and specifically, and any failure to exercise or delay in exercising a right or remedy by the Seller shall not constitute a waiver of that right or remedy or of any other rights or remedies. No provision hereof and no breach of any provision will be deemed waived by reason of any previous waiver of such provision or of any breach thereof.
- 21.3 **Variation.** These Terms and Conditions may be modified only in writing and signed by or on behalf of each of the parties.
- 21.4 **Severance.** The invalidity, illegality or unenforceability, in whole or in part, of any provision of this Agreement will not affect the remainder of such provision or any other provision. If any provision or part-provision or application of any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, then it shall be deemed modified to the minimum extent necessary to carry out, so far as may be valid, legal and enforceable, the intent and purpose of the Agreement including the invalid or unenforceable provision. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted.

Dispute resolution and governing law and jurisdiction. Each Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods will not apply to any Agreement between the Buyer and the Seller. Subject to the provisions of Condition 21.5 each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

- 21.5 If the Agreement forms an international supply contract as defined by Section 26 of the Unfair Contract Terms Act of 1977 and the Buyer has its place of business or habitual residence in a country outside the European Union then any dispute, difference or question which shall at any time arise between the parties as to the construction, meaning or effect of these Terms and Conditions or the rights and liabilities of the parties or otherwise howsoever arising relating thereto shall be referred to the decision of a single arbitrator to be nominated in the event of a disagreement between the parties by the President for the time being of the London Chamber of Commerce such arbitration to take place in London in accordance with International Chamber of Commerce Rules and this Condition shall be deemed to be an arbitration agreement within the meaning of the Arbitration Act 1996. The provisions of this Condition shall not prevent the Seller from enforcement of debts due to the Seller by the Buyer through the courts or seeking legal or equitable relief, including an injunction, upon breach of an Agreement.
- 21.6 **Entire agreement.** The Agreement shall constitute the entire agreement between the parties and shall supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether oral or written, with respect to its subject matter. Each party confirms that it has not relied upon, and shall have no remedy in respect of, any agreement, warranty, statement, representation, understanding or undertaking made by any party unless that warranty, statement representation, understanding or undertaking is expressly set out in the Agreement. Neither party shall be entitled to the remedies of rescission or damages for misrepresentation arising out of, or in connection with, any agreement, warranty, statement, representation, understanding or undertaking whether or not it is set out in the Agreement.